

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:07-CR-79**

UNITED STATES OF AMERICA,)	
)	
Vs.)	ORDER
)	
GREGORY LAQUINN JACKSON,)	
)	
Defendant.)	
_____)	

THIS CAUSE coming on to be heard before the undersigned, pursuant to an order of the court of August 31, 2007 detaining the defendant but directing that a further hearing be held in regard to the detention of the defendant so that the defendant could present evidence as to his plan for living or employment, if he were released, and further to give the Government an opportunity to present additional evidence as to the reasons as why the Government had not indicted the defendant until approximately three years after the events described in the bill of indictment had allegedly occurred. At the call of this matter on for hearing, it appeared that the defendant was present with his counsel, Charles Wyatt McKeller and that the Government was represented through Assistant United States Attorney Tom Ascik and from the evidence offered, the court makes the following findings:

Findings. The court incorporates herein by reference the court's written order of detention which was filed on September 10, 2007. The defendant presented as a witness his mother, Anne Cunningham. Ms. Cunningham resides in Marion, NC by herself and works

the 10:15 p.m. to 6:30 a.m. shift at the McDowell Nursing Home as a CNA. The court finds from Ms. Cunningham's testimony that she would be a fit and suitable person to act as a custodian for the defendant should the court determine to release the defendant.

The Government presented Shannon Smith, Detective of the McDowell County Sheriff's Department. Det. Smith testified that the reason why there had been a period of delay in regard to the indictment of the defendant was that a witness who had made undercover purchases of cocaine base from the defendant had refused to testify. Det. Smith further testified that the defendant was known as a person who was obtaining a supply of cocaine base for distribution in McDowell County, NC from New York. The indictment of the defendant indicates that the Government now has a witness who will testify in regard to this matter.

Further evidence was presented through testimony and statements made through the United States Probation Office that the pretrial services report showing a conviction of the defendant for possession of a controlled substance on jail premises was in fact a conviction of possession of marijuana and thus was not a felony but was a misdemeanor.

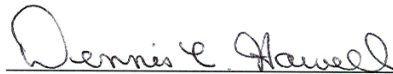
Discussion. The undersigned has reconsidered the issue of the detention of the defendant. The undersigned incorporates herein by reference the order of detention and the addendum that was filed on September 10, 2007. The court considers that Ms. Cunningham would be fit and suitable person to take custody of the defendant. After hearing the explanation of Det. Smith as to the delay of the indictment of the defendant the court finds

that such a delay was reasonable. The court further considers the criminal record of the defendant which now shows that the defendant has been convicted of three felonies and twenty-two misdemeanors indicates the release of the defendant would create a danger to any other person or the community. The three felony convictions of the defendant all involved a controlled substance, that being cocaine. After reconsidering all factors as set forth under 18 U.S.C. § 3142(g), the undersigned finds that there has been shown by clear and convincing evidence that the release of the defendant would create a danger to any other person or the community.

ORDER

WHEREFORE, IT IS **ORDERED** that the defendant be **DETAINED** pending further proceedings in this matter.

Signed: September 17, 2007



Dennis L. Howell
United States Magistrate Judge

